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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,312	07/13/2004	Sam Leeman	9303-29	6112
20792	7590	06/14/2005	EXAMINER	
MYERS BIGEL SIBLEY & SAJOVEC			KALIVODA, CHRISTOPHER M	
PO BOX 37428			ART UNIT	PAPER NUMBER
RALEIGH, NC 27627			2883	

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SAC

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/501,312	LEEMAN ET AL.
	Examiner	Art Unit
	Christopher M. Kalivoda	2883

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on \_\_\_\_\_.
- 2a)  This action is **FINAL**.                            2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-17 is/are rejected.
- 7)  Claim(s) 14 is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on 13 July 2004 is/are: a)  accepted or b)  objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some \* c)  None of:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 7/13/2004.
- 4)  Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Please see page 1, line 16 and page 3, lines 7 and 28.

### ***Claim Objections***

Claim 14 is objected to because of the following informalities: The word "optical" should be inserted after the word "one" in line 1 of the last bullet. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomoaki et al., Japanese Publication 2000-147285 in view of Sell et al., U.S. Patent 6,788,724.

Regarding independent claims 1 and 14, Tomoaki et al. teach a device for sealingly enclosing at least one optical circuit (para 009, line 1 and Fig 2, ref sign 2), the device comprising a container (Fig 2, ref sign 11b and 12 are walls and cover of the container) and a temperature control means (para line 2, Fig 1, ref sign 6 a Peltier device).

However, the reference is silent with respect to a humidity control means.

Sell et al., teach an environmentally controlled container housing an optical circuit which also has a humidity control means (col 7, lines 46-50 and Fig 1, ref sign 50 a desiccant).

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the invention of Tomoaki et al. and include a humidity control means as taught by Sell et al.

The motivation is to absorb moisture and prevent condensation of water on sensitive optical surfaces (col 7, lines 46-50).

Regarding claims 2-3 and 17, the container is flexible or rigid since it made of aluminum (para 0012, lines 2-3).

Regarding claims 4-5 and 15, the temperature control means are accommodated in a wall of the container (para 0012, line 4 and Fig 2, ref sign 6 where the heat control

means is partially in the crevice 11c) or in a space defined by the container (Fig 2, ref sign 6 is also in the space above the crevice 11c).

Regarding claim 6, while the reference is silent with respect to the temperature control means between the at least one optical component and humidity control means, it would have been obvious to one skilled in the art at the time the invention was made to place the temperature control means between the optical component and humidity control means (desiccant).

The motivation for this placement is to separate the desiccant from the optical component to prevent damage/interfering with the operation of the component.

Regarding claim 7, the temperature means comprises an active temperature controller since a Peltier device is contemplated as described above.

Regarding claims 8 and 16, the temperature control means comprise a heat sink (para 0012, line 2-3).

Regarding claim 9, the container contains a heat insulating layer and moisture barrier layer (see abstract, lines 1-7, specifically reference to high temperature and high humidity).

Regarding claim 10, there is an opening for feeding optical fibers (Fig 2, ref sign 3 and 4) therethrough and is sealed by sealing strips (Fig 2, ref sign 14).

Regarding claims 11-12, at least one optical circuit is accommodated, the circuit comprises active and/or passive components (para 009, line 1 and Fig 2, ref sign 2)

since the components are waveguides. A single component is also contemplated (abstract, line 1 in solution).

Regarding claim 13, a kit of parts is implied since the parts described above are used to build the waveguide module.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 6,788,724 to Sell et al. described above could also be used to reject the independent claims under 35 USC 102 since the reference teaches both temperature control and humidity control.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Kalivoda whose telephone number is (571) 272-2476. The examiner can normally be reached on Monday - Friday (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on (571) 272-2415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*CMK*

Cmk  
06/09/05

*Frank G. Font*

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